

REMARKS

Reconsideration of the application in view of the above amendments and the following remarks are respectfully requested.

Claims 1-9 are pending in the application with independent Claim 1. Claims 1, 3 and 9 were rejected under 35 U.S.C. 102(b) as being anticipated by Ozaki et al. (EP 1,207,672). Claim 2 was rejected under 35 U.S.C. 103(a) as being unpatentable over Ozaki in view of Kuroda (W.S. Pub. 2004/0048632) and Pallakoff (U.S. Pub. 2002/0163504)

Claims 4-8 remain objected to as being dependent upon a rejected base Claim 1, but would be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims.

Ozaki teaches an opening/closing structure for a portable information terminal. The Examiner asserts that Ozaki teaches each and every element of the present invention. However, it is respectfully submitted that Ozaki does not provide “a step compensating mechanism *for eliminating* a step between the top surface of the body housing and the top surface of the swing housing when the swing housing is rotated to the prescribed angle from the body housing.” [Emphasis added], as recited in Claim 1. In fact, Ozaki, does not provide a “mechanism for eliminating a step” because as shown in Figs. 1B, 2A and 6C of Ozaki, a step remains between the face of the display portion 3 and the face of the operating portion 5.

The Examiner asserts that because Claim 1 recites a mechanism to prevent “a” step between top surface of the body housing and the top surface of the swing housing, the use of the indefinite article “a” does not convey any amount or

degree of step to be prevented. The Examiner asserts that the mechanism of Ozaki prevents at least some “step” and therefore the device of Ozaki falls within the scope of the claims.

It is respectfully submitted that the Examiner is incorrect. “Prevent” is defined as “to keep from happening”. Synonyms for prevent are preclude, avert, obviate and forestall. Prevent and its synonyms describe an absolute action. For example, prevention of an accident means that the accident has not and will not occur. It does not mean that only a small amount of damage has resulted. With respect to Claim 1 of the present application, the mechanism prevents a step from occurring between the body and swing surfaces of the mobile terminal. The step is not merely reduced.

To the contrary, the Examiner acknowledges that the mechanism of Ozaki only partially reduces the step between the body and swing surfaces. On its face, the step is clearly not prevented.

On April 17, 2006, the Examiner, during a telephone interview regarding the above-identified application, stated that an amendment to change “a step” to “the step” in Claim 1 would resolve that the one and only step is being fully eliminated. The suggested amendment is set forth above in amended Claim 1.

During the interview, US Pub 2004/0248628 to Taninai was raised by the Examiner. Fig. 1 of Taninai illustrates a swing type portable housing where the swing housing 3 is rotatably hinged to the body housing 2 at a recessed part of the main body 2 that is formed at an angle to the upper surface 2a of the body housing. Fig. 2 seems to suggest that the lower surface 3b of the swing housing 3 can mate in a flat surface with the swing housing closed. Fig. 1 seems to suggest that the upper surface 3a of swing housing 3 will meet with the upper surface 2a

of the body housing without a step. However, Figs. 1 and 2 are a simplified conceptual arrangement (Par. 62) that is unworkable. Rotation of the swing housing to the closed position cannot be accomplished because the swing housing 3 would rotate into the body housing 2, if an attempt was made to rotate about hinge 4.

A first embodiment of Taninai is illustrated in Figs. 3-24. In Fig. 6, the step between the body housing 11 and the swing housing 12 is shown to be reduced but not eliminated. Similarly, while the other figures of Taninai may show a reduction of the step, they do not show elimination of the step.

Accordingly, neither Ozaki, nor Taninai, nor any of the other references cited by the Examiner shows a step compensating mechanism that eliminates the step between the swing housing and the body housing. Because neither Ozaki, nor Taninai, nor any of the other references teaches or suggests each and every element of Claim 1, they do not anticipate independent Claim 1.

While not conceding the patentability of the dependent Claims 4-8, per se, dependent claims 2-9 are patentably distinct from Ozaki for at least the above-described reason. Furthermore, the shortcomings of Ozaki is not remedied by combining it with Kuroda and Pallakoff or any of the other references of record. Accordingly, it is believe that Claims 1-9 are in condition of allowance.

Therefore, reconsideration of the above-identified application including rejected Claims 1-3 and 9, as well as objected Claims 4-8 in view of the above amendments and the remarks herein are respectfully requested.

Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicant's attorney at the number given below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul J. Harrell", written over a horizontal line.

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